## NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

ANGEL LUIS LOPEZ,

Appellant,

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STATE OF FLORIDA,

Appellee.

Case No. 2D11-2649

Opinion filed January 27, 2012.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Polk County; Ellen S. Masters, Judge.

Angel Luis Lopez, pro se.

MORRIS, Judge.

Angel Luis Lopez appeals the summary denial of his motion for

postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court denied his sole claim of ineffective assistance of counsel as facially insufficient. Lopez argues, and we agree, that pursuant to <u>Spera v. State</u>, 971 So. 2d 754, 761 (Fla. 2007), he should have been provided with an opportunity to amend and cure the insufficiency, if he can do so in good faith. We therefore reverse and remand

for the postconviction court to strike the motion with leave to amend within a reasonable time, not to exceed thirty days.

Reversed and remanded.

VILLANTI and KHOUZAM, JJ., Concur.